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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/120,806	07/23/98	KIKUSHIMA	M 101151

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MM42/0914

EXAMINER

BUDD, M

ART UNIT

PAPER NUMBER

2834

DATE MAILED: 09/14/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/120806

Applicant(s)

Kikushima et al

Examiner

M. Bodd

Group Art Unit

2834

--The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address--

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 8-11-99.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-6, 8, 10-13 and 15-22 and 30-37 is/are pending in the application.
- Of the above claim(s) 30-37 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-6, 8, 10-13 and 15-22 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☒ The proposed drawing correction, filed on 9-2-98 is ☒ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 3 1/2 4 6 (7-23-98 and 10-13-98)
  - ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
  - ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
  - ☐ Other \_\_\_\_\_

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8, 10-13 and 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Negita (British) in view of Nagai.

Negita, fig. 3, teaches the piezoelectric resonator in a laminated ceramic housing but does not provide a window (opening) in the housing. However, Nagai (Figs. 17-22, 28, 32-34, 36 and 37) teaches providing an opening to allow adjustment of the resonator frequency. Thus, for at least this reason, it would have been obvious to one of ordinary skill in the art to provide Negita's laminated ceramic housing with an opening. Metal coating would be necessary to assure hermetic sealing of the housing. Note that the method steps used to manufacture the article are not germane to the patentability of the article.

Further cited of interest are Staudte (note also, col. 5 ln 24-48), Hata, Fisher, Leonhardt and Hafner.

Regarding applicant's traversal of the restriction requirement it is noted that the claimed method steps are not restricted to making the claimed structure of the product. Note there is no step of forming a laminated housing and no step of coating or metalizing the opening. Thus the claimed method steps can be used to manufacture almost any combination of a piezoelectric

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resonator and a housing. The restriction requirement is hereby repeated and made final. Any possible future rejoinder would depend on method claims that contained all specific steps necessary to provide only the allowable structure of the product, and not just the recitation of in couple of broad, generic steps with product descriptive modifiers.

Budd/ds

09/08/99

MARK J. BUDD  
PRIMARY EXAMINER  
ART UNIT 212